

**ASSEMBLY BILL**

**No. 1227**

**Introduced by Assembly Member Torrico**

February 22, 2005

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An act to amend Section 65008 of the Government Code, relating to housing discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 1227, as introduced, Torrico. Housing: discrimination.

The Planning and Zoning Law prohibits a local agency from prohibiting or discriminating against, among other things, a residential development, as defined, including a multifamily residential project, or emergency shelter because of specified reasons.

This bill would additionally prohibit those actions from being taken because the residential development consists of a continuing care retirement community.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 65008 of the Government Code is  
2     amended to read:  
3     65008. (a) Any action pursuant to this title by any city,  
4     county, city and county, or other local governmental agency in  
5     this state is null and void if it denies to any individual or group of  
6     individuals the enjoyment of residence, landownership, tenancy,  
7     or any other land use in this state because of any of the following  
8     reasons:

1 (1) The race, sex, color, religion, ethnicity, national origin,  
2 ancestry, lawful occupation, familial status, disability, or age of  
3 the individual or group of individuals. For purposes of this  
4 section, both of the following definitions apply:

5 (A) “Familial status” as defined in Section 12955.2.

6 (B) “Disability” as defined in Section 12955.3.

7 (2) The method of financing of any residential development of  
8 the individual or group of individuals.

9 (3) The intended occupancy of any residential development by  
10 persons or families of low, moderate, or middle income.

11 (b) (1) No city, county, city and county, or other local  
12 governmental agency shall, in the enactment or administration of  
13 ordinances pursuant to this title, prohibit or discriminate against  
14 any residential development or emergency shelter for any of the  
15 following reasons:

16 (A) Because of the method of financing.

17 (B) Because of the race, sex, color, religion, ethnicity, national  
18 origin, ancestry, lawful occupation, familial status, disability, or  
19 age of the owners or intended occupants of the residential  
20 development or emergency shelter.

21 (C) Because the development or shelter is intended for  
22 occupancy by persons and families of low and moderate income,  
23 as defined in Section 50093 of the Health and Safety Code, or  
24 persons and families of middle income.

25 (D) Because the development consists of a multifamily  
26 residential project that is consistent with both the jurisdiction’s  
27 zoning ordinance and general plan as they existed on the date the  
28 application was deemed complete, except that a project shall not  
29 be deemed to be inconsistent with the zoning designation for the  
30 site if that zoning designation is inconsistent with the general  
31 plan only because the project site has not been rezoned to  
32 conform with a more recently adopted general plan.

33 (2) The discrimination prohibited by this subdivision includes  
34 the denial or conditioning of a residential development or shelter  
35 because of, in whole or in part, (A) the method of financing or  
36 (B) the occupancy of the development by persons protected by  
37 this subdivision, including, but not limited to, persons and  
38 families of low and moderate income.

39 (c) For the purposes of this section, “persons and families of  
40 middle income” means persons and families whose income does

1 not exceed 150 percent of the median income for the county in  
2 which the persons or families reside.

3 (d) (1) No city, county, city and county, or other local  
4 governmental agency may impose different requirements on a  
5 residential development or emergency shelter that is subsidized,  
6 financed, insured, or otherwise assisted by the federal or state  
7 government or by a local public entity, as defined in Section  
8 50079 of the Health and Safety Code, than those imposed on  
9 nonassisted developments, except as provided in subdivision (e).  
10 The discrimination prohibited by this subdivision includes the  
11 denial or conditioning of a residential development or shelter  
12 based in whole or in part on the fact that the development is  
13 subsidized, financed, insured, or otherwise assisted as described  
14 in this paragraph.

15 (2) No city, county, city and county, or other local  
16 governmental agency may, because of the race, sex, color,  
17 religion, ethnicity, national origin, ancestry, lawful occupation,  
18 familial status, disability, or age of the intended occupants, or  
19 because the development is intended for occupancy by persons  
20 and families of low, moderate, or middle income, impose  
21 different requirements on these residential developments than  
22 those imposed on developments generally, except as provided in  
23 subdivision (e).

24 (e) Notwithstanding subdivisions (a) to (d), inclusive, nothing  
25 in this section or this title shall be construed to prohibit either of  
26 the following:

27 (1) The County of Riverside from enacting and enforcing  
28 zoning to provide housing for older persons, in accordance with  
29 state or federal law, if that zoning was enacted prior to January 1,  
30 1995.

31 (2) Any city, county, or city and county from extending  
32 preferential treatment to residential developments or emergency  
33 shelters assisted by the federal or state government or by a local  
34 public entity, as defined in Section 50079 of the Health and  
35 Safety Code, or other residential developments or emergency  
36 shelters intended for occupancy by persons and families of low  
37 and moderate income, as defined in Section 50093 of the Health  
38 and Safety Code, or persons and families of middle income, or  
39 agricultural employees, as defined in subdivision (b) of Section  
40 1140.4 of the Labor Code, and their families. This preferential

1 treatment may include, but need not be limited to, reduction or  
2 waiver of fees or changes in architectural requirements, site  
3 development and property line requirements, building setback  
4 requirements, or vehicle parking requirements that reduce  
5 development costs of these developments.

6 (f) “Residential development,” as used in this section, means a  
7 single-family residence or a multifamily residence, including  
8 manufactured homes, as defined in Section 18007 of the Health  
9 and Safety Code, *and a continuing care retirement community,*  
10 *as defined in paragraph (11) of subdivision (c) of Section 1771 of*  
11 *the Health and Safety Code.*

12 (g) This section shall apply to chartered cities.

13 (h) The Legislature finds and declares that discriminatory  
14 practices that inhibit the development of housing for persons and  
15 families of low, moderate, and middle income, or emergency  
16 shelters for the homeless, are a matter of statewide concern.